



**CITY OF SUNNYVALE
REPORT
Planning Commission**

December 13, 2004

SUBJECT: **2004-0781:** Appeal of a decision by the Director of Community Development denying the removal of a large Deodar Tree in the front yard. The property is located at **592 Trumbull Court** in an R-1 (Low-Density Residential) Zoning District (APN: 202-03-007);

Motion Appeal of decision of the Director of Community Development denying a Tree Removal Permit for a Deodar tree in the front yard.

REPORT IN BRIEF

Existing Site Conditions Single Family Residence. The subject tree is located in the front yard.

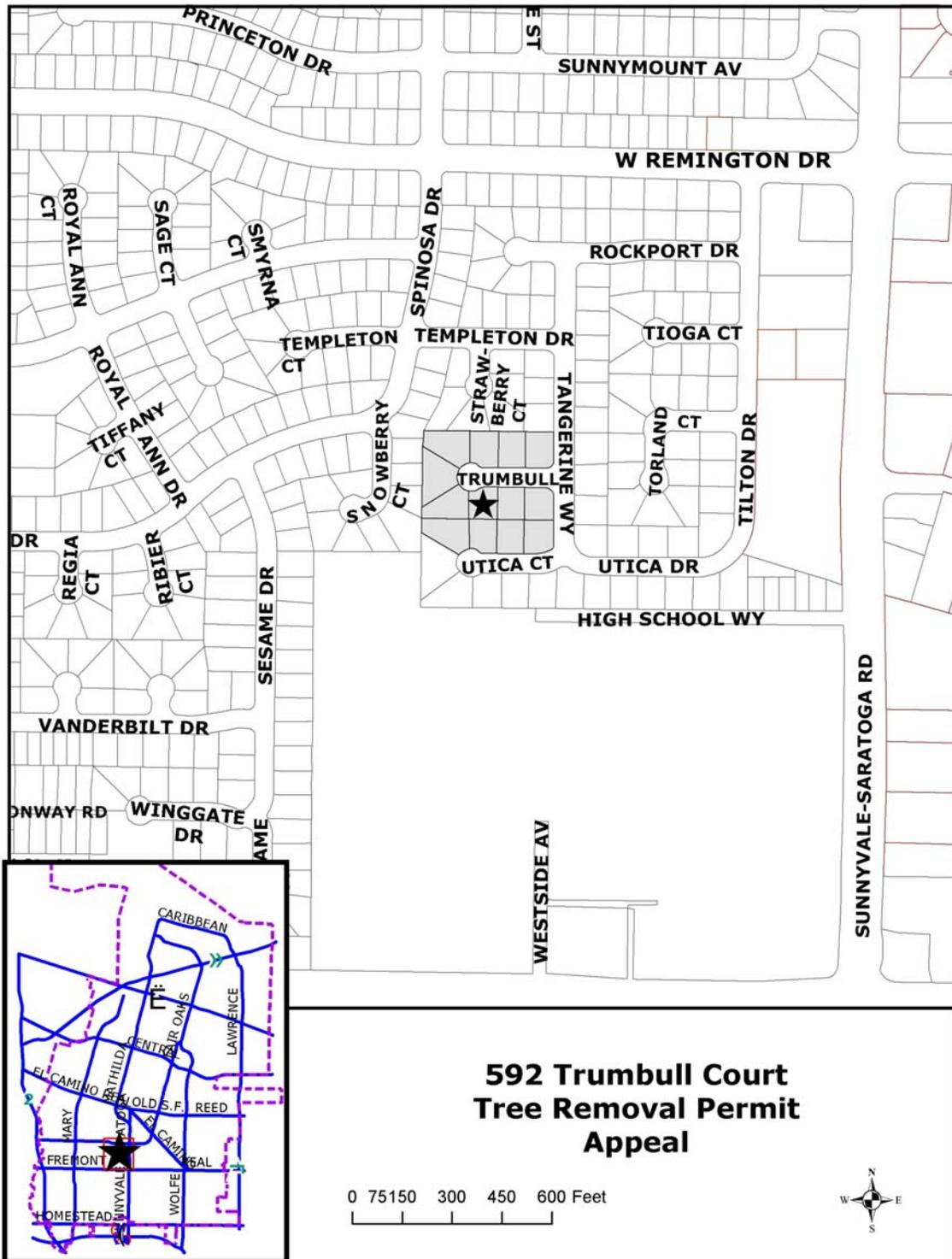
Surrounding Land Uses

North	Single Family Residential (across Trumbull Ct.)
South	Single Family Residential
East	Single Family Residential
West	Single Family Residential

Issues Tree Removal Appeal

Environmental Status A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Deny the appeal and uphold the Tree Removal Permit Denial.



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	---
Zoning District	R-0	Same	---
Lot Size (s.f.)	8,396	Same	8,000 s.f. min.

ANALYSIS**Description of Proposed Project**

On September 27, 2004, the property owner requested a Tree Removal Permit for the removal of two trees (1 Hollywood Juniper and 1 Deodar Cedar) located in the front yard. On October 5, 2004, the City Arborist inspected the trees at the site and recommended approval to remove one tree and denial for the subject tree (see Attachment C, Pictures). Planning Staff concurred with the City Arborist's recommendation and notified the applicant of the decision of approving removal of one tree and denial of the subject tree (see Attachment D, Permit Letter). The applicant has appealed the denial of the Tree Removal Permit (see Attachment E, Appeal Letter).

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
2004-0781	Tree Removal Permit to remove 2 trees (1 Hollywood Cyprus, 1 Deodar Cedar) in the front yard.	Staff review/Approved removal of 1 tree (Hollywood Juniper) and Denied 1 (Deodar Cedar)	10/25/04

Environmental Review

A Class 4 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 4 Categorical Exemptions include minor alteration to land.

Tree Preservation Ordinance (SMC 19.94)

On December 12, 1991, the Tree Preservation Ordinance was established in order to preserve mature trees of significant size. Chapter 19.94 of the Sunnyvale Municipal Code defines a protected tree as a tree with circumference equal to or greater than 38 inches when measured four feet above the ground. A Tree Removal Permit must be obtained prior to removal of a protected tree from private property in any zoning district. An application to remove a tree may be issued if:

1. The tree is diseased or badly damaged;
2. The tree represents a potential hazard to people, structures or other trees;
3. The tree is in sound condition, but restricts the owner's or the neighbor's ability to enjoy reasonable use or economic potential of the property.

Applicant's Appeal

The applicant's appeal letter notes the following (see Attachment E for Applicant's Appeal Letter):

- Proximity of the subject tree to the house;
- The location and size of the tree causing denial of insurance (the new insurance is higher and is less comprehensive);
- Damage to the eaves and roof of the house due limb overhang (roofer denying warranty of the work performed due to the tree).

The appellant also notes her senior status and the hardship caused by the tree and the decision.

Staff Discussion

The City Arborist and Planning Staff visited the site and determined that the subject tree appears to be healthy, structurally sound and is located about seven feet away from the house and about 27 feet away from another large Liquid Amber 'street tree' in the front yard. Staff checked for and saw no obvious signs (such as cracks or undulating ground) for structural damage that may be caused by tree roots. Staff also checked if the tree had a lean and notes that there is a slight lean in the middle portion of the tree which is then corrected in the top portion of the tree. Based on the above observations, staff believes that the tree's proximity to the house is not a potential hazard. The decision to deny the Tree Removal Permit for the subject tree was based upon inability of staff to make the required findings for tree removal, which are provided in Attachment A.

The City Arborist notes that the subject tree is about 30-35 years old, and has at least another 20-30 years of remaining life expectancy. The tree is approximately 45 feet tall, is in good health and is structurally sound and

merits preservation. The subject tree provides value to the landscape and the streetscape. The City Arborist notes that the tree could be pruned (crown reduction) to reduce overhanging branches.

Expected Impact on the Surroundings: The subject 45-foot Deodar tree is highly visible in the neighborhood. Removal of the tree would have a detrimental effect on the overall streetscape. The Hollywood Juniper tree approved for removal is comparatively small and its removal would have a minimal impact on the streetscape. A replacement tree is required for the Juniper tree which, over time, will mature and contribute to the streetscape.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Findings, General Plan Goals and Conditions of Approval

Staff is recommending denial for this appeal because the Findings (Attachment A) were not made; however, if the Planning Commission is able to make the required findings, staff is recommending Conditions of Approval (Attachment B).

- Recommended Findings and General Plan Goals are located in Attachment A.
- Recommended Conditions of Approval are located in Attachment B.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Mailed to eight adjacent property owners of the subject site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website • Recorded for SunDial

Alternatives

1. Deny the appeal and uphold the denial of the Tree Removal Permit.
2. Grant the appeal and approve the Tree Removal Permit subject to the recommended Conditions of Approval.
3. Grant the appeal and approve the Tree Removal Permit subject to modified Conditions of Approval.

Recommendation

Recommend Alternative 1.

Prepared by:

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Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Photos of the subject tree
- D. Permit Letter denying removal of the subject tree
- E. Letter of Appeal from the Applicant and Site Plan

Recommended Findings – Tree Removal Permit

In order to grant a Tree Removal Permit, one or more of the following findings must be met. Staff was unable to make these required findings.

1. The tree is diseased or badly damaged.

The subject tree is not diseased or damaged, and is in good health.

2. The tree represents a potential hazard to people, structures or other trees.

City Staff inspected the site and the subject tree, and observed that the subject tree is in good health, structurally sound and does not present any potential hazard to people, structures or other trees. The tree is located about seven feet away from the house and staff observed no obvious signs of damage that may be caused by the tree. The City Arborist recommends pruning (crown reduction) for the subject tree to reduce overhang and avoid future damage to the roof.

3. The tree is in basically sound condition, but restricts the owner's ability to enjoy the reasonable use or economic potential of the property, or unreasonably restricts an adjoining property's use or economic potential of the adjoining property. In the event this is the sole basis for the application, the following criteria shall be used to evaluate the application under this subsection:

- a. The necessity of the requested removal to allow construction of improvements such as additions to existing buildings or incidental site amenities or to otherwise allow economic or reasonable enjoyment of property;
- b. The topography of the land and the effect of the requested action on water retention and diversion or increased flow of surface water;
- c. The approximate age of the tree relative to its average life span;
- d. The potential effect of removal on soil erosion and stability where the tree is located;
- e. Current and future visual screening potential;
- f. Any other information the Director of Community Development finds pertinent to the application.

Staff believes that the tree is not restricting reasonable use or economic potential of the property. The tree has a remaining life expectancy of at least another 20-30 years. Staff believes that the subject tree is in good health, is located in a reasonably acceptable location, has not detrimentally affected the growth or health of the street tree also located in the front yard, has a significant remaining lifespan and merits preservation.

Recommended Conditions of Approval – Tree Removal Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. One replacement tree, a minimum of 15 gallon size, shall be planted anywhere on the property or an in-lieu fee of \$210.00 be paid to the City to allow a tree to be planted in a City park or other public property.
2. The replacement tree shall be planted within 90 days of the tree removal date.



**View of Subject Tree in the front yard
(Tree on the left is a 'Street Tree')**



View of Subject Tree from the side.

A street tree (liquid amber) is located on the right side



**Location of Subject Tree with respect to house
(Tree is approximately 7 feet away from the house)**



View of the tree overhang on the roof